

## EXCLUSION FROM SCHOOL

### A GUIDE FOR PARENTS/CARERS

#### Types of Exclusions

There are three forms of exclusions from school:

- Fixed Term – is for a specified amount of time.
- Lunchtime – is for the lunchtime period.
- Permanent – is when the headteacher believes that a child should not be allowed back at the school.

#### Unofficial Exclusions

Only the headteacher (or acting headteacher) has the power to exclude a child. Schools cannot ask parents to keep their child at home for a “cooling off period” or because the school cannot meet their needs. This would be an unofficial exclusion and is unlawful, even if the parents agree to it. If the headteacher does not want the child in school for disciplinary reasons, they must go through the formal exclusion process.

#### Children who are Looked After

Exclusion from school should be a last resort for children who are looked after. In the extremely rare event of a looked after child being excluded from school, the school has a duty to secure full-time education from the **first** day.

#### Children with Special Education Needs

If a child with SEN is showing poor behaviour or is at risk of exclusion, the school should look at what additional support is needed or whether an alternative placement would be more appropriate to the child’s needs. If a child has an Education, Health and Care Plan, the school should consider bringing forward the annual review or holding an emergency review.

#### Alternatives to Exclusions

Maintained schools have the power to direct a child to an off-site provision to improve their behaviour and to avoid exclusion.

The school can also arrange a managed move to a new school to allow the child to have a fresh start. A managed move is a formal agreement between the child’s current school, the child, his/her parents, and the proposed new school.

It usually takes place when the home school has exhausted all reasonable strategies to prevent a permanent exclusion.

The expectation is that there will be a trial period (usually not exceeding 12 weeks) agreed by all parties. During this time, the child will be on roll of both schools, i.e. dual registered. The home school will retain the child on its admission register throughout the transition period and maintain full responsibility for recording and addressing attendance issues.

The placement will be monitored and if, after the placement has been reviewed, it is considered successful, the child will be removed from the roll of the home school and be solely on the roll of the new school. If the placement is unsuccessful, the child will return to the home school.

### **Fixed Term Exclusion**

This is one of the sanctions a school can use if a child does something that is against the school's behaviour policy. This can include the behaviour of a child outside school premises. While the child is excluded, they are not allowed on the school site during the exclusion period. Only the headteacher (or acting headteacher) has the authority to exclude a child.

A child may be excluded for one or more fixed periods, but this must not exceed 45 days in a single academic year.

### **What happens when your child is fixed term excluded from school**

For the first five days of an exclusion, the school must provide work for the child. Parents/carers are legally required to ensure their child is not present in a public place during school hours without reasonable justification. Parents/carers who fail to do so may be given a fixed penalty notice or face prosecution.

From the sixth day of the exclusion, the school must provide suitable supervised full-time education.

### **School responsibility to inform parents following a fixed term exclusion**

Once a decision has been taken to exclude a child, the headteacher must tell the child's parents immediately. The school must provide parents with the following information in writing:

- The reason for the exclusion;
- The length of the exclusion;
- Parents' right to make representations about the exclusion to the governing board;
- How any representations should be made;
- If there is a legal requirement for the governing board to consider the exclusion, that parents have the right to attend the meeting with their child, be represented at the meeting and bring a friend.

In exceptional cases, where further evidence has come to light, a fixed term exclusion may be extended, or a permanent exclusion may be deemed appropriate.

If a child is excluded for more than five consecutive days, alternative provision must be arranged from the sixth day. The headteacher must advise parents of

- the start date for the alternative provision;
- start and finish times;
- the address at which the provision will take place;
- the name of the person he/she should report to on the first day.

### Your rights to meet the School Governing Board

You have the right to make representations to the school's governing board. The table below shows when you should meet the governors.

	Less than five days in a term	More than five days but less than 16 days in a term	More than 15 days in a term	Permanent Exclusion
<b>GB Review</b>	Mandatory on request	Mandatory on request	Mandatory	Mandatory
<b>Who can hear the case</b>	Three Governors	Three Governors	Three Governors	Three Governors
<b>Can parents/carers* request a hearing?</b>	Yes, but they have no right to attend.	Yes	No	No
<b>Who should be invited</b>	No-one unless GB choose to issue an invitation. Parents can send a letter/report.	1.Child 2.Parents/child 3.Headteacher 4.Local authority	1.Parents 2.Headteacher 3.Local authority.	1.Parents 2.Headteacher 3.Local authority.
<b>Time frame</b>	No time frame	0-50 days after exclusion	0-15 days after exclusion	0-15 days after exclusion
<b>Possible outcomes</b>	Findings may be placed on the child's file. GB cannot direct re-instatement and is not required to meet parents.	Re-instate immediately or on a particular day or uphold	Re-instate immediately or on a particular day or uphold	Re-instate immediately or on a particular day or uphold

Parents can tell the governing board what they feel about the exclusion. This is called making representation. If the child has returned to school before the governing board meet, they must still place a copy of their findings on the child's school record.

## **Lunchtime Exclusion**

A child whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. These exclusions are counted as half a school day.

## **Permanent Exclusion**

This is the most serious sanction a school can give a child and should only be taken in response to a serious breach or persistent breaches of the school's behaviour policy, and where allowing the child to remain in school would seriously harm the education or welfare of the child or others in the school.

### **School responsibility to inform parents following a fixed term exclusion**

Once the decision has been taken to exclude a child, the headteacher must notify parents without delay. The school must also provide parents with the following information in writing:

- Reason for the exclusion;
- Parents' right to make representations about the exclusion to the governing board and how the child may be involved in this;
- How to make any representations;
- Where there is a legal requirement for the governing board to consider the exclusion, that parents have the right to attend a meeting, be represented at the meeting and to bring a friend.

### **The first five days of a permanent exclusion**

For the first five days of exclusion (or until the start date of alternative provision where this is earlier), parents are legally required to ensure their child is not present in a public place during school hours without reasonable justification. Parents who fail to do so may be given a fixed penalty notice or face prosecution. The school is responsible for providing and marking work for the first five days of the exclusion. Work provided should be accessible and achievable by the child outside of school.

### **Day six of a permanently excluded child**

For permanent exclusions, the local authority must arrange suitable full-time education to begin no later than the sixth day of exclusion. If the child has been permanently excluded from a school outside of the borough, it is the home local authority's duty to arrange suitable full-time education.

## **Governing Board duty following a permanent exclusion**

The Governing Board Discipline Committee (GBDC) must be held within 15 school days of receiving notice of the permanent exclusion. Parents will be invited to attend this meeting also with their child. Parents can bring a friend or legal representative with them or someone to speak on their behalf. If preferred, parents may make their representations to the governors in writing. The local authority should also be invited to the meeting.

## **The meeting of the Governing Board Discipline Committee (GBDC)**

Parents should receive a letter confirming the date and time of the meeting together with the following paperwork at least five school days before the GBDC meeting:

1. The letter notifying the parents of the permanent exclusion –  
This is included because it sets out the reason for the permanent exclusion.
2. Report of incident / reason for permanent exclusion and witness statements (including any statements from the excluded child and other children and staff relating to the incident that led to the permanent exclusion.
3. If the child is not attending, opportunity should be given for the child to submit documentation to ensure his/her views are available by other means.

## **Role of the GBDC**

The role of the GBDC is to act as another 'set of eyes' to review the headteacher's decision to exclude. Exclusions are very serious. The governors consider whether the child should be reinstated.

The following people will attend the meeting:

- There must be a minimum of three governors – one will act as the Chair;
- An independent clerk to take notes and advise on procedure;
- A local authority representative (in the case of a maintained school only);
- The headteacher and/or a senior member of staff;
- The parents or carers – they can be accompanied by a friend or advocate/adviser at the meeting for support;  
The child who has been permanently excluded unless they are very young or there are strong reasons against them attending. It is important that the child is given every opportunity to have their say;
- Witnesses may be called to give evidence but do not normally remain for the full meeting.

The meeting will follow a clear agenda which gives everyone an opportunity to have their say. The agenda for the meeting will be as follows:

- Welcome and introductions;
- The reason for the permanent exclusion as set out in the notification letter to the parents/carers confirming the permanent exclusion;
- Headteacher's or nominated representative's presentation;
- Questions by the parents and governors;
- Parents' representation;
- Questions by the headteacher and governors;
- Local authority's statement (for permanent exclusions);
- Summing up by the school; and
- Summing up by the parents.

At the conclusion of the meeting, the chair will ask all parties, except the clerk, to leave. The clerk will remain with governors to make notes of their discussions and decision.

A letter will be sent to parents/carers by first class post setting out the governors' decision as soon as possible, usually within one school day.

### **GBDC Decision**

The GBDC must consider,

- on a balance of probability whether the child did what he/she is alleged to have done and what behaviour policies were not followed;
- whether the correct procedures and timescales have been adhered to by the headteacher;
- if your child has been excluded for behaviour outside school, this has to be included in the behaviour policy, referring to wearing the school uniform when the incident took place, i.e. impacting on the reputation of the school community
- the seriousness of the incident, and the appropriateness of the length of the sanction;
- the likelihood of the incident being repeated if the child was allowed to return;
- the fairness of the exclusion in relation to any other children involved in the same incident;
- any relevant previous misbehaviour;
- the support provided by the school and for how long it was provided;
- parental involvement;
- any special educational needs and disabilities the child may have;
- any mitigating circumstances (e.g. being bullied, close family bereavement);
- that the school's behaviour policy states that permanent exclusion is a possible consequence of behaviour such as that alleged;
- how the school's discipline policy is disseminated to children and parents.

The GBDC's decision will be to

- decline to reinstate the pupil; or
- direct reinstatement of the pupil immediately or on a particular date.

A decision to exclude a child permanently should only be taken under the following circumstances:

- a) in response to serious and/or persistent breaches of the school's behaviour policy; and,
- b) if allowing the child to remain in school would seriously harm the education or welfare of the child or others in the school.

If the governors confirm the permanent exclusion of the child, they must advise parents of their right to request the decision to be reviewed by an Independent Review Panel. They should confirm details of where an application for a review should be sent.

### **What to do if you want an Independent Review Panel (IRP) to review the Governing Board decision**

If parents wish to request the decision to be reviewed by an independent review panel, they must write to the clerk of the panel within 15 school days of the governors' decision. Parents are able to request a review even if they did not attend the meeting.

The application should explain the reasons for the review and, where appropriate, include reference to any special educational needs that are considered to be relevant to the exclusion.

### **Role of the IRP**

The panel cannot reinstate the child but can review the decision of the governing board of the excluding school. Where a panel decides that a governing board's decision is flawed, it can direct them to reconsider their decision.

### **Meeting of the IRP**

The panel must meet within 15 school days after receiving the parent/s letter. Parents will be told as soon as possible when and where the hearing will take place.

If possible, parents should attend the review. If parents do not attend, and do not inform the clerk that they are unable to attend, the panel will consider their appeal in their absence. Parents may wish to bring a friend or representative with them.



The child is also able to attend the review and advice should be given by the clerk on how best to support their participation. If the child feels unable to attend the review, they may wish to contribute their views through a representative or provide a written statement.

### **Special Educational Needs Expert**

Parents may also wish for a Special Educational Needs (SEN) expert to attend the child's review. If so, this needs to be included in your application to the panel. Parents may request the presence of an SEN expert regardless of whether their child has a recognised Special Educational Need.

The role of the SEN expert is not to assess the child's special educational needs but to advise on whether the school's policies which relate to SEN and the application of these policies with regard to the child were legal and fair.

### **Possible outcome of the IRP**

Following the review, the panel can decide to

- uphold the exclusion - this means the child will subsequently come off the roll of their excluding school and education will continue through the alternative provider;
- recommend the governing board reconsiders their decision - as this is only a recommendation; the governing board can refuse to reconsider the exclusion. Parents will be advised accordingly. Should the governors reconsider the exclusion, the child will remain on the school roll until a final decision is reached.
- quash the decision and direct the governing board to reconsider re-instatement. If the governing board fails to re-instate the child within 10 school days of receiving notice of the panel's decision, the excluding school will face a £4,000 fine.

The panel's decision is binding.

If the child is not re-instated following the review or the parents have decided not to proceed with a review and the child is still of compulsory school age (5-16), the teaching offered by the alternative provider will continue until it is felt appropriate to re-integrate the child in a mainstream or alternative setting. When the child is ready to be re-integrated back into school, they will be allocated a school place under the Fair Access Protocol.

### **Further Advice and Guidance**

You can find statutory guidance regarding your child's exclusion online at <https://www.gov.uk/government/publications/school-exclusion>.



You may also find it useful to contact Coram Children's Legal Centre. They provide free legal advice and information to parents on education matters. They can be contacted on **0300 330 5485** or by going online at <http://www.childlawadvice.org.uk>.

Alternatively, you can contact ACE Education online at <http://www.ace-ed.org.uk> and their limited advice line service on **03000 115 142** from Monday to Wednesday from 10am to 1pm (during term time).

If your child has special educational needs, then a local, independent service is also available to advise you. The service is provided by Carers of Barking and Dagenham (Information Advice Support Service (IASS)), 334 Heathway, Dagenham, RM10 8NJ – Phone: **020 8593 4422** – email: [carers@carerscentre.org.uk](mailto:carers@carerscentre.org.uk) – Online: <https://www.carers.org/local-service/barking> or <https://councilfordisabledchildren.org.uk/information-advice-and-support-services-network/about>.

You may also wish to contact the National Autistic Society (NAS) School Exclusion Service (England) on **0808 800 4002** or [schoolexclusions@nas.org.uk](mailto:schoolexclusions@nas.org.uk), or Independent Parental Special Education Advice (IPSEA) online at <http://www.ipsea.org.uk/>.